

CS for SB 1960

1 THE STATE SENATE
2 Monday, February 22, 2010

3 Committee Substitute for
4 Senate Bill No. 1960

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1960 - By: Coates and Myers
6 of the Senate and Shannon of the House.

7 [airports - Aircraft Pilot and Passenger Protection Act -
8 codification -noncodification -
9 emergency]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 120.1 of Title 3, unless there
13 is created a duplication in numbering, reads as follows:

14 1. This act shall be known and may be cited as the "Aircraft
15 Pilot and Passenger Protection Act".

16 2. It is the intent of this act to regulate the height of
17 structures near public-use airports thereby protecting the safety
18 and welfare of the flying public; to restrict the use of land in the
19 immediate vicinity of the airport to activities compatible with
20 aircraft operations; to protect the public investment in airport
21 infrastructure; to provide specific powers and duties to the
22 Commission and to provide penalties for violations of this act.

23 SECTION 2. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 120.2 of Title 3, unless there
25 is created a duplication in numbering, reads as follows:

1 As used in this act:

2 1. "Airport reference point" is the geometrical center of all
3 usable runways;

4 2. "Airport Elevation" is the highest point of an airport's
5 usable runways measured in feet from mean sea level;

6 3. "Commission" means the Oklahoma Aeronautics Commission or a
7 successor agency;

8 4. "FAA" means the Federal Aviation Administration or a
9 successor agency to the Federal Aviation Administration;

10 5. "Legal representative" means an official of the airport
11 sponsor who is authorized to legally bind the airport sponsor;

12 6. "Noise-sensitive area" means an area lying one thousand five
13 hundred (1,500) feet on either side of the centerline and the
14 extended centerline of a runway for a distance of one (1) statute
15 mile from ends of a runway at any public-use airport;

16 7. "Noise-sensitive purpose" means the use of a building or
17 structure as a residence, school, church, child-care facility,
18 medical facility, retirement home, or nursing home; or similar use;

19 8. "Permit" means a permit issued by the Commission under this
20 act;

21 9. "Person" means an individual, firm, partnership,
22 corporation, association, or body politic and includes a trustee,

1 receiver, assignee, or other similarly authorized representative of
2 any of them;

3 10. "Public-use airport" means a structure or an area of land
4 or water that is designed and set aside for the landing and taking
5 off of aircraft, is utilized or to be utilized by and in the
6 interest of the public for the landing and taking off of aircraft
7 and is identified by the FAA as a public-use airport. The term does
8 not include:

- 9 a. any privately owned airport for private use as
10 identified by FAA, or
- 11 b. any military airport solely occupied by any branch of
12 the federal government using that airport for military
13 air purposes;

14 11. "Runway" means the portion of an airport designated as the
15 area used for the landing or takeoff of aircraft;

16 12. "Structure" means any constructed or installed object,
17 including, but not limited to, cranes, buildings, towers, wind
18 turbines, smokestacks, electronic transmission or receiving towers,
19 and antennae and overhead transmission lines;

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 120.3 of Title 3, unless there
22 is created a duplication in numbering, reads as follows:

1 The construction of a structure used for a noise-sensitive
2 purpose, as defined in Section 2 of this act, within a noise-
3 sensitive area, as defined in Section 2 of this act, constitutes an
4 incompatible use of land near a public-use airport and is regulated
5 by this act.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 120.4 of Title 3, unless there
8 is created a duplication in numbering, reads as follows:

9 A person must obtain a permit from the Commission prior to the
10 construction, installation or alteration of any of the following:

11 1. Any structure to be constructed for a noise-sensitive
12 purpose in a noise-sensitive area;

13 2. Any structure that would result in a total structure height
14 in excess of one hundred and fifty (150) feet above the established
15 airport elevation and within three (3) statute miles of a public-use
16 airport measured from the airport reference point; or

17 3. Any structure that is of greater height than a surface
18 shaped like a trapezoid:

19 a. longitudinally centered on the extended runway
20 centerline,

21 b. begins two hundred (200) feet beyond the end of each
22 runway pavement and at the runway end elevation,

- 1 c. has an inner edge width of one thousand (1,000) feet
2 expanding outward uniformly to a width of sixteen
3 thousand (16,000) feet at the outer edge, and
4 d. sloping upward for a distance of eleven thousand
5 (11,000) feet at a slope of fifty (50) to one (1),
6 with an additional forty thousand (40,000) feet at a
7 slope of forty (40) to one (1).

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 120.5 of Title 3, unless there
10 is created a duplication in numbering, reads as follows:

11 Any structure or alteration to a structure, including a mobile
12 structure is presumed to be a hazard to air navigation if it is of
13 greater height than any of the following heights or surfaces:

14 1. A horizontal plane one hundred fifty (150) feet above the
15 established airport elevation, the perimeter of which is constructed
16 by swinging arcs of ten thousand (10,000) feet radii from a point
17 located on the extended runway centerline two hundred (200) feet
18 beyond each end of runway pavement and connecting the adjacent arcs
19 by lines tangent to those arcs with a surface extending outward and
20 upward from the perimeter of this horizontal plane at a slope of
21 twenty (20) to one (1) for a horizontal distance of four thousand
22 (4,000) feet.

23 2. A surface shaped like a trapezoid:

- 1 a. longitudinally centered on the extended runway
2 centerline,
3 b. begins two hundred (200) feet beyond the end of each
4 runway pavement and at the runway end elevation,
5 c. has an inner edge width of one thousand (1,000) feet
6 expanding outward uniformly to a width of sixteen
7 thousand (16,000) feet at the outer edge, and
8 d. sloping upward for a distance of eleven thousand
9 (11,000) feet at a slope of fifty (50) to one (1),
10 with an additional forty thousand (40,000) feet at a
11 slope of forty (40) to one (1).

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 120.6 of Title 3, unless there
14 is created a duplication in numbering, reads as follows:

15 Any person required to apply for a permit in accordance with the
16 provisions of this act must provide written notice to the airport
17 owner of a public-use airport thirty (30) days prior to applying for
18 a permit from the Commission. The notice shall be sent by certified
19 or registered mail, with return receipt requested, and must include
20 the following:

- 21 1. Contact details of the applicant; i.e., name, telephone
22 number and mailing address;
23 2. Intended use of the structure;

1 3. Location of the structure, including the latitude and
2 longitude accurate to within the nearest one hundredth of a second
3 based on the North American Datum of 1983 (NAD83);

4 4. Elevation of the ground above mean sea level (AMSL),
5 elevation of the structure AMSL and height of the structure above
6 ground level (AGL) in feet measured accurate to within twenty (20)
7 feet horizontally and three (3) feet vertically;

8 5. A copy of the seven and one-half-minute U.S. Geological
9 Survey Quadrangle Map with the precise site location marked, on
10 eight and one-half by eleven paper; and

11 6. A copy of the Form 7460-1 as defined in 14 CFR part 77, sub-
12 part A, Section 17 that has been filed with the FAA, along with a
13 copy of the FAA determination, including comments by the FAA, if
14 any.

15 SECTION 7. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 120.7 of Title 3, unless there
17 is created a duplication in numbering, reads as follows:

18 Applications to the Commission for a permit in accordance with
19 the provisions of this act for construction near a public-use
20 airport must include the following:

21 1. For construction in a noise-sensitive area, a person
22 applying for a permit in accordance with paragraph 1 of Section 4 of
23 this act must provide the following documents to the Commission:

- 1 a. a complete copy of the notice, including all
2 attachments submitted to the airport owner of a
3 public-use airport in accordance with Section 6 of
4 this act and the comments received from the airport
5 owner,
- 6 b. the following statement on the applicant's letterhead,
7 signed by a legal representative:
8 "The applicant acknowledges for itself, its heirs, its
9 successors, and its assigns, that the real estate
10 described in this permit experiences or may experience
11 significant levels of aircraft noise, and that the
12 applicant is erecting a building designed for noise-
13 sensitive use upon the real estate, with the full
14 knowledge and acceptance of the aircraft noise as well
15 as any effects resulting from aircraft operations.",
- 16 c. a copy of the FAA determination on the proposed
17 construction based on the form 7460-1 as defined in 14
18 CFR part 77, sub-part A, Section 17 previously
19 submitted to FAA and provided to the airport owner per
20 Section 6 of this act, and
- 21 d. a completed application in the form prescribed by the
22 Commission.

1 2. For Construction or alteration of a structure near a public-
2 use airport a person applying for a permit in accordance with
3 paragraph 2 or 3 of Section 4 of this act must provide the following
4 documents to the Commission:

5 a. a complete copy of the notice, including all
6 attachments submitted to the airport owner of a
7 public-use airport in accordance with Section 6 of
8 this act and the comments received from the airport
9 owner,

10 b. a copy of the FAA determination on the proposed
11 construction based on the form 7460-1 as defined in 14
12 CFR part 77, sub-part A, Section 17 submitted to FAA
13 and provided to the airport owner per Section 6 of
14 this act, and

15 c. a completed application in the form prescribed by the
16 Commission.

17 SECTION 8. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 120.8 of Title 3, unless there
19 is created a duplication in numbering, reads as follows:

20 1. Upon receiving an application for a permit, the Commission
21 shall determine whether the proposed structure erected in the
22 proposed location is a structure for a noise-sensitive purpose in a
23 noise-sensitive area per Section 3 of this act and/or whether a

1 structure would be a hazard to air navigation if constructed per
2 Section 5 of this act. The Commission may take into consideration
3 findings and recommendations of other governmental agencies or
4 interested persons concerning the proposed structure; however, such
5 findings or recommendations are not binding on the Commission.

6 2. The Commission may consider an application for a permit for
7 a period of sixty (60) days before making a final determination.

8 SECTION 9. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 120.9 of Title 3, unless there
10 is created a duplication in numbering, reads as follows:

11 Once a permit is issued by the Commission, the applicant will be
12 required to complete the following steps to complete the permit
13 process:

14 1. The applicant or applicants for a permit under Section 4 of
15 this act shall record each permit issued by the Commission in the
16 office of the county clerk for the county where the structure is
17 located not later than thirty (30) business days after the
18 Commission issues the permit. If a structure is located in more
19 than one county, the county that contains the majority of the
20 structure is the county in which the permit must be filed. A permit
21 issued under paragraph 1 of Section 4 of this act shall contain the
22 following statement: "The permittee acknowledges for itself, its
23 heirs, its successors, and its assigns, that the real estate

1 described in this permit experiences or may experience significant
2 levels of aircraft noise, and that the permittee is erecting a
3 building designed for noise-sensitive purpose upon the real estate,
4 with the full knowledge and acceptance of the aircraft noise as well
5 as any effects resulting from the aircraft operations."

6 2. A permit issued in accordance with the provisions of Section
7 4 of this act is valid only after the Commission receives a
8 certified copy of the recorded permit with the recording data from
9 the county clerk of the county in which the structure is located.

10 3. Every permit granted by the Commission shall specify
11 obstruction markers, markings, lighting, or other visual or aural
12 identification required to be installed on or in the vicinity of the
13 structure, if any. The identification characteristics required
14 shall conform to federal laws and regulations or as prescribed by
15 the Commission. Failure to maintain obstruction lights in an
16 operable condition is a violation of this act.

17 SECTION 10. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 120.10 of Title 3, unless there
19 is created a duplication in numbering, reads as follows:

20 A permit issued in accordance with the provisions of Section 4
21 of this act is valid only if the proposed structure has been
22 constructed within five (5) years of the issuance of a permit by the
23 Commission per Section 9 of this act.

1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 120.11 of Title 3, unless there
3 is created a duplication in numbering, reads as follows:

4 1. If the Commission determines that a permit should not be
5 issued under the provisions of this act, the Commission shall notify
6 the applicant in writing of its determination. The notification may
7 be served by delivering it personally to the applicant or by sending
8 it by certified or registered mail to the applicant at the address
9 specified in the application.

10 2. The determination is final thirty (30) days after
11 notification of the determination is served, unless the applicant,
12 within the thirty-day period, requests in writing to the Commission
13 for reconsideration and provides written evidence that the structure
14 does not violate the provisions of this act. The Commission will
15 consider the additional written evidence provided for an additional
16 period of thirty (30) days from the receipt of the request. The
17 Commission will notify the applicant of its determination as in
18 subsection A of this section. In the event of a second denial by
19 the Commission of the permit request, the applicant can request a
20 hearing before the Commission with reference to the application. A
21 hearing under this section shall be open to the public. Any person
22 interested may appear and be heard either in person or by counsel
23 and may present pertinent evidence and testimony. At the hearing,

1 the applicant has the burden to show cause why the Commission should
2 have granted the permit to erect the proposed structure.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 120.12 of Title 3, unless there
5 is created a duplication in numbering, reads as follows:

6 The provisions of this act shall not apply to the existing
7 structures that existed prior to the effective date of this act.
8 Any alterations to such existing structures would be covered by the
9 provisions of this act.

10 SECTION 13. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 120.13 of Title 3, unless there
12 is created a duplication in numbering, reads as follows:

13 Each violation of this act, or rulings promulgated by the
14 Commission pursuant to this act, shall constitute a misdemeanor
15 punishable by a fine of not more than Five Hundred Dollars
16 (\$500.00). Each day that such a violation or failure continues
17 constitutes a separate offense. In addition the Commission may
18 institute, in any court of general jurisdiction, an action to
19 prevent, restrain, correct, or abate any violation of this act or of
20 any rules or orders the Commission issued or ordered under this act.
21 The court may grant such relief, by way of injunction, which may be
22 mandatory, or otherwise, as may be necessary under this act and the
23 applicable rules or orders of the Commission issued under this act.

1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 120.14 of Title 3, unless there
3 is created a duplication in numbering, reads as follows:

4 The Commission shall prepare and charge a schedule of reasonable
5 fees for services rendered not to exceed Five Hundred Dollars
6 (\$500.00) per permit application.

7 SECTION 15. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

9 The Commission is authorized to promulgate any rules necessary
10 to implement the provisions of this act.

11 SECTION 16. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 2-9-10 - DO
16 PASS, As Amended and Coauthored.